
EXHIBIT D

In the Matter of the Claim of:

THE ESTATE OF [REDACTED],

-vs-

**VERIFIED NOTICE
OF CLAIM**

THE TOWN OF DEWITT and
TOWN OF DEWITT POLICE DEPARTMENT.

 TO: THE TOWN OF DEWITT
 THE DEWITT POLICE DEPARTMENT

PLEASE TAKE NOTICE that The Estate of [REDACTED] by its appointed administrator, Carissa A. Albham, hereby makes claim against The Town of DeWitt and the DeWitt Police Department, and in support of such claim states as follows:

1. The name and the post office address of each claimant and the claimant's attorney:

Claimant: Administrator, Carissa A. Albham, 115 West Pleasant St., Apt.: C-1, Manlius, NY 13104. A true and correct copy of the Certificate of Appointment of Administrator for Carissa A. Albham is attached hereto as *Exhibit A*.

Counsel for Claimant: Weisberg & Zukher, PLLC., David E. Zukher, Esq., 109 South Warren Street, Suite 711, Syracuse, NY 13202.

2. The nature of the claim: For severe personal injury, pain and suffering, wrongful death, assault, battery, intentional infliction of emotional distress, negligent infliction of emotional distress, negligent hiring/retention/training, excessive use of force 42 U.S.C. Section 1983, including, but not limited to, *Monell* liability, and vicarious liability.

3. The time when; the place where; and the manner in which the claim arose:

On March 4, 2021, at 4372 Apulia Road, Jamesville, NY, County of Onondaga, Mrs. Carissa A. Albham, the natural mother of [REDACTED] (DOB: [REDACTED]), a seventeen (17) year-old minor child (hereinafter "[REDACTED]"), called the St. Joseph's Hospital Health Center, the Comprehensive Psychiatric Emergency Program, to report that [REDACTED] was continuing to experience a mental health crisis. At approximately 12:24 p.m. of the same day, Mrs. Albham called the police for assistance, so that her son could be brought in for treatment safely, after [REDACTED] fled by car from a mobile crisis team dispatched by the St. Joseph's Hospital Health Center.

Upon information and belief, three (3) different police agencies responded to the 911 call made by Mrs. Albahm, including, *the DeWitt Police, Investigators Lucas Byron and Matthew Menard*; the Onondaga County Sheriff's Office, Sergeant Amy Bollinger; and the NYS Police, State Trooper Corey Fike. Upon information and belief, dispatchers, family members, and others on the scene repeatedly warned all of the officers involved that [REDACTED] had a history of mental illness; had/owned an airsoft/pellet gun, commonly referred to as a BB Gun; and had prior threatened suicide by "cop."

Less than an hour after arriving on the scene, at approximately, 1:25 p.m., during their pursuit of [REDACTED], the aforementioned police officers, despite knowing the foregoing, repeatedly discharged their service weapons and shot [REDACTED] multiple times, thereby, causing his death. In doing so, the aforementioned police officers/agencies carelessly, negligently, and/or recklessly caused [REDACTED] death. Specifically, the police failed to establish proper communications with each other; [REDACTED], [REDACTED] family; and the St. Joseph's Comprehensive Psychiatric Mobile Crisis Outreach Team which was present on the scene; failed to properly de-escalate the situation; failed to deploy/dispatch properly trained crisis intervention officers; failed to employ proper de-escalation techniques to defuse the situation; failed to employ/utilize body cameras; failed to establish a proper chain of command; failed to communicate with one-another to develop a viable and safe plan/objective; and failed to consider/read the dispatch information available. Upon information and belief, pursuant to Executive Order No. 147, the State Attorney General of the State of New York is currently conducting a criminal investigation as to the conduct of the police/agencies involved, the results of which investigation have not been made public.

4. The items of damage or injuries are:

As a result of the careless, negligent, and reckless conduct of *Investigators Lucas Byron and Matthew Menard* the injuries suffered by [REDACTED] include, but are not limited to, severe and permanent personal injury, great pain and suffering, wrongful death, hospital and medical bills, as well as funeral expenses, the exact amounts of which are not known at this time. In addition thereto, [REDACTED] was of employable age and, upon information and belief, was employed and/or employable at the time of his death. As such, claimant seeks all economic damages for lost future earnings and benefits, as well as all attorney's fees and costs.

That said claim and demand is hereby presented for adjustment and payment.

PLEASE TAKE FURTHER NOTICE that by reason of the premises, in default of THE TOWN OF DEWITT and TOWN OF DEWITT POLICE DEPARTMENT to pay to the claimant any sum within the time limited for compliance with this demand by the said entities by the statutes in such cases made and provided, claimant intends to commence an action in the Supreme Court of the State of New York against THE TOWN OF DEWITT and TOWN OF DEWITT POLICE DEPARTMENT to recover a money judgment, together with interest and costs.

FILED: ONONDAGA COUNTY CLERK 02/28/2022 04:04 PM

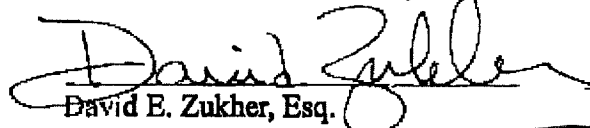
INDEX NO. 001367/2022

NYSCEF DOC. NO. 3

RECEIVED NYSCEF: 02/28/2022

Dated: May 17, 2021

WEISBERG & ZUKHER, PLLC.



David E. Zukher, Esq.

Attorneys for The Estate of [REDACTED]

109 S. Warren Street, Suite 711

Syracuse, New York 13202

Telephone (315) 701-2939

TO:

Town of DeWitt

5400 Butternut Dr.

East Syracuse, NY 13057

Town of DeWitt Police Department

5400 Butternut Dr.

East Syracuse, NY 13057

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)

COUNTY OF ONONDAGA) SS.:

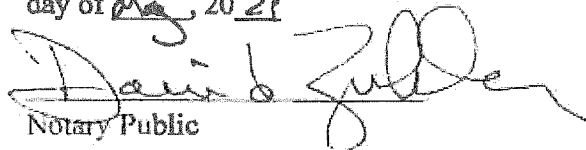
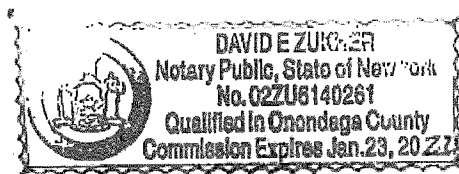
I, the undersigned, Carissa A. Albahm on behalf of The Estate of [REDACTED] depose and say:

I am the Administrator of the estate of Judge C. Albahm in this action; I have read the foregoing Verified Notice of Claim and know the content thereof; the same is true to knowledge, except as to the matters therein stated to be alleged on information and belief and as to those matters, I believe it to be true.



Carissa A. Albahm,

Sworn to before me this 17th
day of May, 20 21


Notary Public

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EXHIBIT A

Certificate# 67308

**Surrogate's Court of the State of New York
Onondaga County
Certificate of Appointment of Administrator**

File #: 2021-533

IT IS HEREBY CERTIFIED that Letters in the estate of the Decedent named below have been granted by this court, as follows:

Name of Decedent:

Date of Death: March 4, 2021

Domicile:

County of Onondaga

Fiduciary Appointed:

Carlissa A. Albahrn

Mailing Address:

115 West Pleasant St.
Apt. C1
Manlius NY 13202

Type of Letters Issued: LIMITED LETTERS OF ADMINISTRATION

Letters Issued On: April 29, 2021

Limitations: Said administrator(s), in both his/her/their individual and fiduciary capacity/capacities as well as any attorney who represents him/her/them in either capacity/capacities, shall not collect or receive the proceeds from any action instituted or settled pursuant to the authority granted by these letters without the further order of this court or any court of competent jurisdiction pursuant to EPTL 6-4.6

and such Letters are unrevoked and in full force as of this date.

Dated: April 29, 2021

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Onondaga County Surrogate's Court at Syracuse, New York.

WITNESS, Hon. Mary Keib Smith, Judge of the Onondaga County Surrogate's Court.



Eileen A. Casey, Esq. Chief Clerk
Onondaga County Surrogate's Court

This Certificate is Not Valid Without the Raised Seal of the Onondaga County Surrogate's Court

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NYSCEF DOC. NO. 3

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Affidavit of ServiceIN THE MATTER OF THE CLAIM OF:
THE ESTATE OF [REDACTED]

Plaintiff (s)/Petitioner(s)

against

Index No.

Date Filed:

THE TOWN OF DEWITT AND TOWN OF DEWITT POLICE
DEPARTMENT

Defendant(s)/Respondent(s)

NEW YORK STATE, COUNTY OF ONONDAGA § TROY L. PRATER

The undersigned, being duly sworn, deposes and says; that deponent is not a party herein, is over 18 years of age and served a VERIFIED NOTICE OF CLAIM in the above titled action or proceeding upon TOWN OF DEWITT POLICE DEPARTMENT (herein called the recipient) at 5400 BUTTERNUT DRIVE, EAST SYRACUSE, NY 13057 On the 18TH day of MAY 2021 at 2:53 PM.

- ☐ Individual by delivering a true copy of each to said recipient personally. Deponent knew the person served to be the person described as said person therein.
- ☒ Corporation by delivering thereat a true copy of each to JOHN MCNELL personally. Deponent knew said corporation so served to be the corporation described therein, and knew said individual to be RECORDS CLERK thereof.
- ☐ Suitable Age by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is defendant's/respondent's actual within the State.
- ☐ Affixing by affixing a true copy of each to the door of said premises, which is defendant's/respondent's actual within the State. Deponent was unable with due diligence to find defendant/respondent or a person of suitable age and discretion, thereat, having called there on
- ☐ Mailing On deponent enclosed a copy in a postpaid envelope properly addressed to defendant/respondent at and Deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within the State of New York. The envelope bore the legend "Personal & Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant/respondent.

A description of the defendant/respondent OR the person served on behalf of the defendant/respondent is as follows:

Sex: MALE Skin Color: WHITE Hair Color: SALT&PEPPER Approximate Age: 50-65 Approximate Height: 5'11"
Approximate Weight: 180 Other Identifying Features: BEARD

I asked the person spoken to whether the defendant/respondent was in active military service of the United States of the State of New York and received a negative reply. The person spoken with wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations defendant/respondent narrated above. Upon information and belief, I aver that the recipient is not in military service of the State of New York or the United States.

Sworn to before me this 20th day of MAY 2021

Anthony Joseph Roscoe
Notary Public

Anthony Joseph Roscoe
Notary Public-State of New York
No. 01RO6353273
Qualified in Onondaga County
My Commission Expires January 17, 2025

TROY L. PRATER

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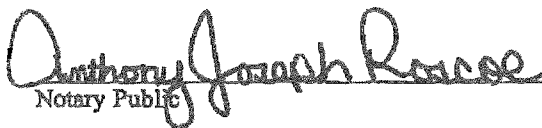
- ☐ Individual by delivering a true copy of each to said recipient personally. Deponent knew the person served to be the person described as said person therein .
- ☒ Corporation by delivering thereat a true copy of each to MICHELL SMITH personally. Deponent knew said corporation so served to be the corporation described therein, and knew said individual to be TOWN CLERK thereof.
- ☐ Suitable Age by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is defendant's/respondent's actual within the State.
- ☐ Affixing by affixing a true copy of each to the door of said premises, which is defendant's/respondent's actual within the State. Deponent was unable with due diligence to find defendant/respondent or a person of suitable age and discretion, thereat, having called there on
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A description of the defendant/respondent OR the person served on behalf of the defendant/respondent is as follows:

Sex: FEMALE Skin Color: WHITE Hair Color: BLONDE Approximate Age: 50-65 Approximate Height: 5'6"
Approximate Weight: 165 Other Identifying Features:

I asked the person spoken to whether the defendant/respondent was in active military service of the United States of the State of New York and received a negative reply. The person spoken with wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations defendant/respondent defendant/respondent narrated above. Upon information and belief, I aver that the recipient is not in military service of the State of New York or the United States.

Sworn to before me this 20th day of MAY 2021


Notary Public


TROY L. PRATER

Anthony Joseph Roscoe
Notary Public-State of New York
No. 01RO6353273
Qualified in Onondaga County
My Commission Expires January 17, 2025

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ATTORNEY(S) : Weisberg & Zukher, PLLC

INDEX # : XXXXXX

PURCHASED/FILED :

STATE OF : New York

COURT : Court of Claims

COUNTY/DISTRICT : XXXXXX

AFFIDAVIT OF SERVICE - SECRETARY OF STATE

In the Matter of the Claim of: The Estate of [REDACTED]

Plaintiff(s)

against

The Town of Dewitt, et al

Defendant(s)

STATE OF NEW YORK }
COUNTY OF ALBANY } SS
CITY OF ALBANY }**DESCRIPTION OF PERSON SERVED:**

Approx. Age: 55 Yrs.

Weight: 120 Lbs. Height: 5' 0" Sex: Female Color of skin: White

Hair color: Blonde Other:

Sean Warner, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; is not a party to this action, and resides in the State of NY, and that on **May 20, 2021**, at **1:00pm**, at the office of the Secretary of State of the State of NY, located at 99 Washington Ave, 6th Fl, Albany, New York 12231 deponent served:

Verified Notice of Claim

on

Town of Dewitt

the Defendant in this action, by delivering to and leaving with


Sue Zouky


AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, two (2) true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of **250** dollars; That said service was made pursuant to Section **GENERAL MUNICIPAL LAW §53 (CERTIFICATE OF DESIGNATION FILED)**.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Sworn to before me on this

20th day of May, 2021


YVONNE STRAIN
NOTARY PUBLIC, State of New York
01ST6314054, Schenectady
Commission Expires November 3, 2022


Sean Warner

Invoice-Work Order # 2116242
Attorney File # Albahm